

REMARKS

Claims 1, 3, 4, 6, 8-12, 14-28 and 30-35 are pending in this application. By this Amendment, claim 2 is canceled without prejudice to or disclaimer of the subject matter contained therein; and claim 1 is amended. No new matter is added as claim 1 includes the subject matter of canceled claim 2. Favorable consideration and allowance of this application are respectfully requested.

CLAIM REJECTIONS - 35 U.S.C. § 102 (KILLION)

Claims 1-4, 6, 8-10, 12, 17 and 34 are rejected under 35 U.S.C. § 102(b), as being anticipated by Killion et al. (hereinafter "Killion"), U.S. Pat. No. 5,524,056. This rejection is respectfully traversed.

Applicants submit that Killion fails to disclose or suggest, *inter alia*, "a casing for mounting in an electronic communication device", as recited in claim 1.

By contrast, Killion discloses a casing 420, 425 enclosing the entire hearing aid device (Figs. 18 and 19), which cannot be mounted to an electronic communication device as the hearing aid in Killion is the electronic communication device in itself.

Further, Killion fails to disclose to suggest, *inter alia*, "within the casing one or more microphones and one or more controlling devices that can be operated by a user for selectively controlling the operation of the assembly", as recited in claim 1.

The Examiner asserted that elements 55, 395, 395', 410, 435, 475, 480 and 485 correspond to a "controlling device".¹ Applicants respectfully disagree. Elements 395, 395', 410, 475, 480 and 485 (Figs. 18-21) are static devices that cannot be changed, and thus cannot be controlled by an user. With regard to elements 55 and 435, it is submitted that element 55 (switch) as shown in Figs. 1 and 6, and element 435 (switch) as shown in Fig. 18 may be considered a controlling device that can be operated by a user; however, switches 55 and 435 are not within the casing, as recited in claim 1.

¹ See Office Action, page 2, paragraph 2.

Because Killion fails to disclose each and every feature of claim 1, it cannot provide a basis for a rejection under 35 U.S.C. § 102.

For at least these reasons, claim 1 is allowable. Claims 3, 4, 6, 8-10, 12, 17 and 34 are also allowable by virtue of their dependency on allowable independent claim 1. Withdrawal of the rejection is respectfully requested.

CLAIM REJECTIONS - 35 U.S.C. § 102 (RUEGG)

Claims 1-4, 6, 8-10, 12, 17 and 34 are rejected under 35 U.S.C. § 102(b) as being anticipated by Ruegg, U.S. Pat. No. 3,875,349. This rejection is respectfully traversed.

As similarly discussed above, Applicants submit that Ruegg also fails to disclose or suggest, *inter alia*, “a casing for mounting in an electronic communication device”, as recited in claim 1.

Instead, Ruegg discloses a casing 27, 33 enclosing the entire hearing aid device (Fig. 5), which cannot be mounted to an electronic communication device as the hearing aid in Ruegg is the electronic communication device in itself.

Further, Ruegg fails to disclose to suggest, *inter alia*, “within the casing one or more microphones and one or more controlling devices that can be operated by a user for selectively controlling the operation of the assembly”, as recited in claim 1.

The Examiner asserted that elements 22, 33, 26 and 37 correspond to a “controlling device”.² Applicants respectfully disagree. Elements 33, 36 and 37 are static devices that cannot be changed, and thus cannot be controlled by a user. With regard to element 22, it is submitted that element 22 (switch) as shown in Fig. 5 may be considered a controlling device that can be operated by a user; however, switch 22 is not within the casing, as recited in claim 1.

² See Office Action, page 2, paragraph 2.

Because Ruegg fails to disclose each and every feature of claim 1, it cannot provide a basis for rejection under 35 U.S.C. § 102.

For at least these reasons, claim 1 is allowable over Ruegg. Claims 3, 4, 6, 8-10, 12, 17 and 34 are also allowable by virtue of their dependency on allowable independent claim 1. Withdrawal of the rejection is respectfully requested.

CLAIM REJECTIONS – 35 U.S.C. § 103

Claims 11 and 12 are rejected under 35 U.S.C. § 103 (a) as being unpatentable over Killion or Ruegg. This rejection is respectfully traversed.

Applicants submit that the combination of Killion and Ruegg fails to cure the noted deficiency set forth above with respect to Killion and Ruegg. In particular, Killion and Ruegg neither disclose nor suggest “a microphone assembly comprising a casing for mounting in an electronic communication device, the microphone assembly having one or more sound inlet ports, and within the casing one or more microphones and one or more controlling devices that can be operated by a user for selectively controlling the operation of the assembly”, as recited in claim 1. Accordingly, as Killion and Ruegg fail to teach or suggest each features of the claim, the rejection under 35 U.S.C. § 103 is improper. Withdrawal of the rejection is respectfully requested.

CONCLUSION

Accordingly, in view of the above amendments and remarks, reconsideration of the rejections and allowance of each of claims 1, 3, 4, 6, 8-12, 14-28 and 30-35 in connection with the present application is earnestly solicited.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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